

34A-2-417 Claims and benefits -- Time limits for filing -- Burden of proof.

- (1)
 - (a) Except with respect to prosthetic devices or in a permanent total disability case, an employee is entitled to be compensated for a medical expense if:
 - (i) the medical expense is:
 - (A) reasonable in amount; and
 - (B) necessary to treat the industrial accident; and
 - (ii) the employee submits or makes a reasonable attempt to submit the medical expense:
 - (A) to the employee's employer or insurance carrier for payment; and
 - (B) within one year from the later of:
 - (I) the day on which the medical expense is incurred; or
 - (II) the day on which the employee knows or in the exercise of reasonable diligence should have known that the medical expense is related to the industrial accident.
 - (b) For an industrial accident that occurs on or after July 1, 1988, and is the basis of a claim for a medical expense, an employee is entitled to be compensated for the medical expense if the employee meets the requirements of Subsection (1)(a).
 - (2)
 - (a) A claim described in Subsection (2)(b) is barred, unless the employee:
 - (i) files an application for hearing with the Division of Adjudication no later than six years from the date of the accident; and
 - (ii) by no later than 12 years from the date of the accident, is able to meet the employee's burden of proving that the employee is due the compensation claimed under this chapter.
 - (b) Subsection (2)(a) applies to a claim for compensation for:
 - (i) temporary total disability benefits;
 - (ii) temporary partial disability benefits;
 - (iii) permanent partial disability benefits; or
 - (iv) permanent total disability benefits.
 - (c) The commission may enter an order awarding or denying an employee's claim for compensation under this chapter within a reasonable time period beyond 12 years from the date of the accident, if:
 - (i) the employee complies with Subsection (2)(a); and
 - (ii) 12 years from the date of the accident:
 - (A)
 - (I) the employee is fully cooperating in a commission approved reemployment plan; and
 - (II) the results of that commission approved reemployment plan are not known; or
 - (B) the employee is actively adjudicating issues of compensability before the commission.
 - (3) A claim for death benefits is barred unless an application for hearing is filed within one year of the date of death of the employee.
- (4)
 - (a)
 - (i) Subject to Subsections (2)(c) and (4)(b), after an employee files an application for hearing within six years from the date of the accident, the Division of Adjudication may enter an order to show cause why the employee's claim should not be dismissed because the employee has failed to meet the employee's burden of proof to establish an entitlement to compensation claimed in the application for hearing.
 - (ii) The order described in Subsection (4)(a)(i) may be entered on the motion of the:
 - (A) Division of Adjudication;
 - (B) employee's employer; or

- (C) employer's insurance carrier.
- (b) Under Subsection (4)(a), the Division of Adjudication may dismiss a claim:
 - (i) without prejudice; or
 - (ii) with prejudice only if:
 - (A) the Division of Adjudication adjudicates the merits of the employee's entitlement to the compensation claimed in the application for hearing; or
 - (B) the employee fails to comply with Subsection (2)(a)(ii).
- (c) If a claim is dismissed without prejudice under Subsection (4)(b), the employee is subject to the time limits under Subsection (2)(a) to claim compensation under this chapter.
- (5) A claim for compensation under this chapter is subject to a claim or lien for recovery under Section 26-19-5.

Amended by Chapter 174, 2010 General Session